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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,649	01/27/2004	Younger Ahluwalia	03137.000006	4007
5514 7590 04/29/2008 FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112				
EXAMINER				
CHANG, VICTOR S				
ART UNIT		PAPER NUMBER		
1794				
MAIL DATE		DELIVERY MODE		
04/29/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/766,649

**Applicant(s)**

AHLUWALIA ET AL.

**Examiner**

Victor S. Chang

**Art Unit**

1794

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 2-6, 8-12, 14 and 15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 7, 13 and 16-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF-08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Introduction***

1. Applicants' declaration and arguments filed on 2/19/2008 have been entered. Claim 1 has been amended. It should be noted that the original withdrawn claim 15 and claim number 19 are missing from the list of claims. For the present Office action, the listed claim numbers 15-18 are renumbered as 16-19 as originally presented. Further, the status identifiers of claims 8 and 15 should be corrected as "(withdrawn)" [see Remarks page 2, filed 2/7/2006]. Appropriate corrections are required in the next reply. Claims 1, 7, 13 and 16-20 are active.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. In response to the amendments and arguments, upon a careful reconsideration, the grounds of rejection have been updated with a new interpretation of references of record as set forth below. Rejections not maintained are withdrawn.

### ***Rejections Based on Prior Art***

4. Claims 1, 7, 13 and 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lynn et al. [US 6093481] in view of Horner, Jr. et al. [US 6365533] and Martin et al. [US 5713974].

Lynn's invention relates to an insulation sheathing (facer) for an insulation board. Fig. 2 illustrates an embodiment that the facer is a bilaminate on each major surface of a foam board. The inner layers 17 and 18 of the bilaminates may be any fibrous layer, a metallic layer, etc.,

such as a glass fiber sheet or an aluminum sheet [col. 4, ll. 50-65]. The outer layers 11 and 12 may be a thermoplastic polymer or polymeric mixture possesses a combination of properties include good chemical and physical stability, high mechanical strength, durability, heat and chemical resistance and thermal insulation properties. Any conventional foam facer having aforementioned properties may be used as outer layer [col. 3, ll. 26-37]. The outer polymeric layers may be modified by additives, such as filler, fire retardants, etc., to meet particular requirements [col. 3, ll. 49-53]. The attachment of outer layers 11 and 12 to other layers in the facer laminate may be facilitated by any adhesive material (binder) or other fastening aid (e.g., adhesion promoter) known for use in binding plastic films [col. 3, ll. 9-14].

For claims 1, 7, 13 and 16-20, Lynn lacks a teaching that the outer layer of the bilaminate comprises a prefabricated microcells component, a surfactant component, and surfactant-generated microcells. However, Horner's invention relates to a foamed facer for an insulation board. The facer comprises an adhered surface coating of a prefoamed composition on a glass mat [col. 4, ll. 16-20]. The composition comprises thixotropic polymer latex (binder), foam sustaining surfactant (surfactant generated microcells), filler such as clays, and flame retardant (fire resistant) [col. 3, lines 1-22 and 45-46]. Surfactants are organic types such as ammonium salts of a C<sub>10</sub> to C<sub>22</sub> fatty acid (fast soap) [col. 3, ll. 51-53]. The facer is damage resistant (durability) [col. 5, ll. 13-16]. Further, Martin's invention relates to exterior coatings containing insulating microspheres of glass or polymeric material (prefabricated microcells) for providing a high insulating value [abstract; col. 3, ll. 62-67]. The insulation coating contains an admixture of microspheres, pigments, latex and acrylic materials, etc. The insulation coatings may be used for roofs, etc. [col. 10, ll. 36-50]. It would have been obvious to one of ordinary skill in the art to

manufacture Lynn's bilaminate with Horner's adhesive latex/filler/surfactant coating composition, incorporated with Martin's microspheres (preformed microcells), as the outer layers of the bilaminate facer, motivated by the desire to provide improved durability and thermal insulation value of the facer, and with a reasonable expectation of success at the time the claimed invention was made.

### *Response to Argument*

5. In view of the amendments and arguments, applicants' arguments directed to the withdrawn reasoning in the prior grounds of rejection are moot.

### *Conclusion*

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor S. Chang whose telephone number is 571-272-1474. The examiner can normally be reached on 7:00 am - 5:00 pm, Tuesday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Victor S Chang/  
Primary Examiner, Art Unit 1794